

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Clay Allen Thompson
Clay Thompson, Inc.
d.b.a. Clay's Little Radio Shop
70503 IH-20
Mingus, TX 76463

File No.: EB-04-DL-257
Citation: C20053250004
Sent via Certified
Return Receipt Requested
and First Class U.S. Mail

CITATION

Released: November 8, 2004

By the Enforcement Bureau, Dallas Office:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ to Clay Allen Thompson and Clay Thompson, Inc., d.b.a. Clay's Little Radio Shop for violation of Section 302(b) of the Act,² and Sections 2.803(a)(1) of the Commission's Rules.³

2. An investigation by the FCC's Dallas Office revealed that the Internet domain name claysradioshop.com is registered to Clay's Little Radio Shop, 70503 IH20, Mingus, TX 76463. Furthermore, on November 4, 2004, Clay Allen Thompson / Clay Thompson, Inc., d.b.a. Clay's Little Radio Shop through the use of Internet site www.claysradioshop.com (with the name and address currently listed on the site as "Clay's Radio Shop, 70503 IH-20, Gordon, TX 76453"), offered for sale the following twenty-six (26) non-certified Citizens Band transceivers:

<u>NAME</u>	<u>MODEL</u>	<u>PRICE</u>	<u>DESCRIPTION</u>
Connex	3300	\$179.95	"6 Bands of Operation", "Echo"
Connex	3300 CF	\$215.95	"6 Bands of Operation", "Echo"
Connex	3300 HP	\$206.95	"6 Bands of Operation", "Echo"
Connex	3300 USF	\$215.95	"6 Bands of Operation", "Echo"
Connex	4400 High Power	\$229.95	"8 Bands of Operation", "Echo"
Connex	4800 HPE	\$314.95	"12 Bands of Operation", "Echo"
Galaxy	DX-33HML	\$179.95	"6 Band AM/FM", "Built in Echo"
Galaxy	DX-44	\$197.95	"8 Band AM/FM", "Built in Echo"
Galaxy	DX 48T	\$386.95	"8 Band 150 watt AM/FM"
Galaxy	DX-55V	\$179.95	
Galaxy	DX66V	\$251.95	"8 Band AM/FM", "Built in Echo"
Galaxy	DX 73V	\$278.95	"8 Band AM/FM", Robo Voice"
Galaxy	DX-77HML	\$242.95	"6 Band AM/FM/SSB", "Built in Echo"
Galaxy	DX 88HL	\$332.95	"8 Band AM/FM/SSB", "Built in Echo"
Galaxy	DX 93T	\$413.95	

¹ 47 U.S.C. § 503(b)(5)

² 47 U.S.C. § 302a(b)

³ 47 C.F.R. § 2.803(a)(1)

<u>NAME</u>	<u>MODEL</u>	<u>PRICE</u>	<u>DESCRIPTION</u>
Galaxy	DX 95T	\$449.95	
Galaxy	DX99V	\$359.95	"8 Band AM/FM/SSB", "Voice Changer"
General	Grant	\$439.95	"12 Band AM/FM/SSB/CW"
General	Stonewall Jackson	\$649.95	
General	Lee	\$229.95	"6 Band AM/FM", "Echo"
Ranger	RCI 2950	\$299.95	
Ranger	RCI 2970DX	\$429.95	"150W SSB, 50W AM/FM/CW"
Ranger	RCI 6300F25	\$299.95	"12 Bands of Channels", Echo"
Ranger	RCI 6300 F150	\$429.95	"12 Bands of Channels", Echo"
Ranger	RCI 6900 F25	\$339.95	"12 Bands of Channels", "Echo"
Ranger	RCI 6900 F150	\$449.95	"12 Bands of Channels", "Echo"

According to the Commission's records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States.

3. Section 302(b) of the Act² provides "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section." Section 2.803(a)(1) of the Rules³ provides that "... no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled" Clay Allen Thompson / Clay Thompson, Inc., d.b.a. Clay's Little Radio Shop offered these devices for sale in violation of both sections.

4. Clay Allen Thompson / Clay Thompson, Inc., d.b.a. Clay's Little Radio Shop marketed these devices as Amateur and/or Citizens Band transceivers. The Commission has evaluated radio frequency devices similar to those listed in paragraph 2 and concluded that the devices at issue are not only Amateur radios but can easily be altered for use as Citizens Band devices as well. A CB transmitter is a transmitter that operates or is intended to operate at a station authorized for the CB service, and it must be certificated by the FCC prior to marketing or importation.⁴ The Commission has further concluded that these devices fall within the definition of a CB transmitter and therefore cannot legally be imported or marketed in the United States. *See* Response from the Commission's General Counsel to U.S. Customs Service dated May 17, 1999, 14 FCC Rcd 7797 (1999).

5. Additionally, dual use CB and Amateur radios of the kind at issue here may not be certificated under the Commission's rules. Section 95.655(a) of the Rules⁵ states: "... ([CB] Transmitters with frequency capability for the Amateur Radio Services . . . will not be certificated.)" *See also* FCC 88-256, 1988 WL 488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and Amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

⁴ *See* 47 C.F.R. §§ 95.603(c) & 2.803

⁵ 47 C.F.R. § 95.655(a)

6. Furthermore, the Commission has revised Section 2.1204(a)(5) of its Rules⁶ to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export. ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION'S RULES.

7. In addition to the marketing of the non-certified transceivers addressed above, Clay Allen Thompson / Clay Thompson, Inc., d.b.a. Clay's Little Radio Shop are warned that Section 302(b) of the Act², and Section 2.815(c) of the Commission's Rules⁷ requires FCC Type Acceptance (or Certification) of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency or frequencies below 144 MHz. Furthermore, Section 2.815(b) of the Commission's Rules⁸ prohibits the marketing of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency or frequencies between 24 and 35 MHz.

8. Subsequent violations of the Communications Act and/or the Commission's Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation,⁹ seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.¹⁰

9. Clay Allen Thompson / Clay Thompson, Inc., d.b.a. Clay's Little Radio Shop may request a personal interview at the closest FCC location to its place of business,¹¹ namely:

Federal Communications Commission
9330 LBJ Freeway, Suite 1170
Dallas, Texas 75243-3470

which can be contacted by telephone at XXX XXX-XXXX. He must schedule this interview to take place within 14 days of the date of this citation. Mr. Clay Allen Thompson / Clay Thompson, Inc., d.b.a. Clay's Little Radio Shop may submit a written statement within 14 days of the date of this Citation to the same address. Any written statement should specify what actions have been taken to correct the violation(s) outlined above. When corresponding with the Commission, case number EB-04-DL-257 and citation number C20053250004 should be referenced.

⁶ 47 C.F.R. § 2.1204(a)(5) revised effective February 28, 2000

⁷ 47 C.F.R. § 2.815(c)

⁸ 47 C.F.R. § 2.815(b)

⁹ See 47 C.F.R. § 1.80(b)(3)

¹⁰ See 47 U.S.C. §§ 401, 501, 503, 510

¹¹ See 47 U.S.C. § 503(b)(5)

10. Any statement or information provided may be used by the Commission to determine if further enforcement action is required.¹² Any knowingly or willfully false statement made in reply to this notice is punishable by fine or imprisonment.¹³

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director
Dallas Office
FCC Enforcement Bureau

LRB

Cc: Mr. Clay Allen Thompson
Clay Thompson, Inc.
d.b.a. Clay's Little Radio Shop
70503 IH-20
Gordon, TX 76453

Mr. Clay Allen Thompson
d.b.a. Clay's Little Radio Shop
3972 Lazy Bend Rd.
Millsap, TX 76066-3823

¹² See Privacy Act of 1974, 5 U.S.C. §552a(e)(3)

¹³ See 18 U.S.C. §1001